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11 HUBB SYSTEMS, LLC

12 HUBB SYSTEMS, LLC,

13 Plaintiff,

14 vs.

15 MICRODATA GIS, INC.,

16 Defendant.

17 Case No.: C07-02677 BZ

18 **PLAINTIFF AND DEFENDANT-IN-COUNTERCLAIM HUBB SYSTEMS, LLC'S ANSWER TO DEFENDANT AND PLAINTIFF-IN-COUNTERCLAIM MICRODATA GIS, INC.'S COUTNERCLAIMS**

19 Courtroom G  
20 Magistrate Judge Bernard Zimmerman

21 AND RELATED COUNTERCLAIMS

22 Counterclaimant Hubb Systems, LLC ("Hubb") submits its Answer to the counterclaims  
23 of Defendant and Counterclaimant microDATA GIS, Inc. alleging Trademark Infringement,  
24 False Designation of Origin, Unfair Competition, and Declaratory Judgment and denies any and  
25 all such allegations, and further admits or denies the specific allegations of the Counterclaim  
and states the affirmative defenses as follows:

26 1. Hubb admits the allegations of subject matter jurisdiction contained in paragraph  
27 1. Except as expressly admitted herein, Hubb denies all allegations in paragraph 1 of the  
28 Counterclaim.

1       2.    Hubb admits that microDATA GIS, Inc. is a Vermont corporation. Hubb lacks  
2 information to form a belief as to the balance of the facts alleged in paragraph 2 of the  
3 Counterclaim and on that basis denies them.

4       3.    Hubb admits the allegations in paragraph 3 of the Counterclaim.

5       4.    Hubb admits the allegations in paragraph 4 of the Counterclaim.

6       5.    Hubb admits the allegations in paragraph 5 of the Counterclaim.

7       6.    Hubb lacks information to form a belief as to the allegations in paragraph 6 of the  
8 Counterclaim and on that basis denies them.

9       7.    Hubb lacks information to form a belief as to the allegations in paragraph 7 of the  
10 Counterclaim and on that basis denies them.

11       8.    Hubb lacks information to form a belief as to the allegations in paragraph 8 of the  
12 Counterclaim and on that basis denies them.

13       9.    Hubb lacks information to form a belief as to the allegations in paragraph 9 of the  
14 Counterclaim and on that basis denies them.

15       10.   Hubb admits the allegations in paragraph 10 of the Counterclaim.

16       11.   Hubb lacks information to form a belief as to the allegations in paragraph 11 of  
17 the Counterclaim and on that basis denies them.

18       12.   Hubb lacks information to form a belief as to the allegations in paragraph 12 of  
19 the Counterclaim and on that basis denies them.

20       13.   Hubb lacks information to form a belief as to the allegations in paragraph 13 of  
21 the Counterclaim and on that basis denies them.

22       14.   Hubb lacks information to form a belief as to the allegations in paragraph 14 of  
23 the Counterclaim and on that basis denies them.

24       15.   Hubb denies all allegations in paragraph 15 of the Counterclaim.

25       16.   Hubb denies all allegations in paragraph 16 of the Counterclaim.

26       17.   Hubb denies all allegations in paragraph 17 of the Counterclaim.

27       18.   Hubb denies all allegations in paragraph 18 of the Counterclaim.

19. Hubb lacks information to form a belief as to the allegations in paragraph 19 of the Counterclaim and on that basis denies them.

20. Hubb denies all allegations in paragraph 20 of the Counterclaim.

21. Hubb incorporates its responses to paragraphs one through twenty of the Counterclaim, inclusive, as if fully set forth herein.

22. Hubb admits the allegations of 22 of the Counterclaim.

23. Hubb denies all allegations in paragraph 23 of the Counterclaim.

24. Hubb incorporates its responses to paragraphs one through twenty three of the Counterclaim, inclusive, as if fully set forth herein.

25. Hubb lacks information to form a belief as to the allegations in paragraph 25 of the Counterclaim and on that basis denies them.

26. Hubb lacks information to form a belief as to the allegations in paragraph 26 of the Counterclaim and on that basis denies them.

27. Hubb lacks information to form a belief as to the allegations in paragraph 27 of the Counterclaim and on that basis denies them.

28. Hubb lacks information to form a belief as to the allegations in paragraph 28 of the Counterclaim and on that basis denies them.

29. Hubb denies all allegations in paragraph 29 of the Counterclaim.

30. Hubb lacks information to form a belief as to the allegations in paragraph 30 of the Counterclaim and on that basis denies them.

31. Hubb incorporates its responses to paragraphs one through thirty of the Counterclaim, inclusive, as if fully set forth herein.

32. Hubb denies all allegations in paragraph 32 of the Counterclaim.

33. Hubb denies all allegations in paragraph 33 of the Counterclaim.

34. Hubb denies all allegations in paragraph 34 of the Counterclaim.

35. Hubb incorporates its responses to paragraphs one through thirty four of the Counterclaim, inclusive, as if fully set forth herein.

- 1 36. Hubb denies all allegations in paragraph 36 of the Counterclaim.
- 2 37. Hubb denies all allegations in paragraph 37 of the Counterclaim.
- 3 38. Hubb denies all allegations in paragraph 38 of the Counterclaim.
- 4 39. Hubb denies all allegations in paragraph 39 of the Counterclaim.
- 5 40. Hubb denies all allegations in paragraph 40 of the Counterclaim.
- 6 41. Hubb denies that microDATA GIS, Inc. is entitled to any of the relief sought in  
7 the Counterclaim, or any relief at all.

8 **AFFIRMATIVE DEFENSES**

9 Hubb hereby asserts the following Affirmative Defenses to the Counterclaim:

- 10 A. microDATA's claims, and each of them, fail to state a cause of action upon  
11 which relief may be granted.
- 12 B. microDATA's claims, and each of them, are barred by the doctrine of laches.
- 13 C. microDATA's claims, and each of them, are barred by the doctrine of waiver.
- 14 D. microDATA's claims, and each of them, are barred by the doctrine of estoppel.
- 15 E. microDATA's claims, and each of them, are barred by the doctrine of unclean  
16 hands.
- 17 F. microDATA's claims, and each of them, are barred by microDATA's conduct  
18 constituting acquiescence to Hubb's use and registration of its marks.
- 19 G. microDATA's claims, and each of them, are barred by microDATA's conduct  
20 constituting abandonment of rights, if it ever held any, in the marks at issue.
- 21 H. By way of further affirmative defenses, Hubb incorporates by reference the  
22 charging allegations of its complaint against microDATA.
- 23 I. Hubb reserves the right to add further affirmative defenses at a later time.

24 Dated: September 4, 2007

FITZGERALD ABBOTT & BEARDSLEY LLP

25 By

26 William E. Adams

27 Attorneys for Plaintiff Hubb Systems, LLC